

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Communications Assistance for Law)	ET Docket No. 04-295
Enforcement Act and Broadband Access and)	
Services)	RM-10865

December 19, 2005

**REPLY COMMENTS OF
Salisbury University**

Introduction and Summary

Salisbury University respectfully submits these reply comments in response to the Further Notice of Proposed Rulemaking adopted in the above-captioned docket.¹ Salisbury University supports the comments filed by the Higher Education Coalition and submits this reply to amplify several points based on its own experience and circumstances.

Salisbury University strongly urges the FCC to exempt colleges and universities from CALEA. We are quite able and willing to respond to requests for needed information regarding network use with within existing laws. We have spent a great deal of effort and money over the past years constructing an IT network and network services which uniquely serve our needs. Our focus has been

¹ *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-295, FCC 05-153 (rel. Sept. 23, 2005) (“*Order*”).

on applying technology standards, wherever possible, and constructing a network which serves both the academic and administrative units effectively, at a reasonable cost. Changing this environment to meet external requirements would result in unreasonable hardware, software and personnel costs. These are costs which the university cannot afford as we make every effort to stretch dollars to meet a growing number of needs on campus. We support the development of a more effective national security system and will work closely with law enforcement and lawmakers as we always have, but feel strongly that the changes suggested by CALEA would impose an unreasonable burden on our campus.

Discussion

1. FCC Should Clarify That Higher Education Networks Are Exempt from CALEA.

Salisbury University believes that higher education institutions are not subject to CALEA because the statute expressly exempts “equipment, facilities, or services that support the transport or switching of communications for private networks.” 47 U.S.C. § 1002(b)(2)(B). Salisbury University does operate a large network within the context of the campus and also connects, through the University System of Maryland network, to the internet. We are able to monitor and regulate internet traffic, and do so to comply with copyright and other laws. The university does have the tools in place to provide user information to authorities as required under law. Since all internet traffic travels to and from users over our network, and the USM network, we know that sufficient controls are in place to address the

concerns for national security. Additions or changes to this environment are not needed and will result in unreasonable costs to the university.

We believe the Commission should clarify that only commercial entities are covered by the language in footnote 100, in light of the clear statutory exemption of private network operators. Alternatively, the Commission should invoke its discretionary authority under Section 102(8)(C)(ii) of CALEA to exempt higher education and research institutions from compliance with the forthcoming assistance-capability requirements. Such an exemption is necessary to remain faithful to congressional intent and to avoid imposing unnecessary burdens on colleges, universities, and research institutions.

Contrary to the suggestion by the Department of Justice that “no exemptions are appropriate based on the current record,” the Higher Education Coalition has defined a narrow class of private network operators that should be exempt from CALEA for all the reasons contained in the Coalition’s comments and in these reply comments. The absence of existing compliance standards does not argue for postponing exemption determinations, but instead makes a prompt exemption more critical. Because the Commission has established an 18-month compliance deadline, Salisbury University must begin planning *now* to set aside funds for possible CALEA compliance. A significant “retooling” of the university network would be virtually impossible to achieve within existing budgets during this time frame.

2. Experience in Dealing with external requests for internet user information

Salisbury University has experience dealing with external requests in both civil and criminal cases. We have been able and willing, with appropriate documentation, to fully comply with requests for detailed information.

- The majority of the cases we have dealt with have involved civil suits and notifications based on potential copyright violations. These cases are becoming fewer, but have been at least a weekly occurrence for the past 5 years (2000). We have had only a few criminal cases, but were able to comply with investigators as needed.
- In each case we have been able to locate the individuals involved based on IP address or MAC ID. We complied with the external request to provide a warning or, in some cases, provided detailed information from the university network or university owned computer.
- Salisbury University has a well publicized acceptable use policy which clearly states that the university will comply with officially presented requests for user information from law enforcement entities. The student code of conduct and campus email policy echo this position.

Salisbury University's experience helps demonstrate that existing procedures are more than adequate to ensure compliance with lawful surveillance requests, in light of both the infrequency of such requests and higher education institutions' history of full cooperation. Imposing burdensome new assistance-capability

requirements under CALEA is simply not necessary to serve the interests of law enforcement.]

3. A Broad Application of CALEA Would Impose Significant Burdens on Salisbury University and Divert Funds from Its Critical Educational Mission.

As noted above, Salisbury University believes that CALEA does not apply to it under the plain terms of the statute and under the most reasonable reading of the *Order*. If the Commission were to apply the language in footnote 100 of the *Order* broadly and conclude that higher education networks such as Salisbury's must comply with some or all assistance capability requirements, such a ruling would impose significant and unwarranted burdens.

Although specific requirements are still unclear, we are concerned that if the *Order* were interpreted by DOJ or the FCC to require interception of communications by particular users at points *within* the Salisbury University's network, the impact could include:

- Standardizing on network core equipment, as well as wired and wireless switches, which are currently not used on our campus. This could be tantamount to replacing our entire network. Costs would exceed two million dollars.
- A redesign of the existing network could be almost as expensive with the addition of additional hardware and expanded internet connectivity to enable external monitoring.
- In the current environment we are already absorbing costs related to extensive network security monitoring and system safeguards. Costs

include personnel costs and the procurement of software/hardware to make network security more manageable. Adding this additional burden would only drive these costs higher.

- The only avenue we have to cover these costs will be student tuition or additional State funding. Each of these options has met public resistance in recent years.

In short, if the FCC were to apply CALEA broadly to higher education networks — contrary to the text of the statute — such a ruling would impose significant burdens that far outweigh its putative benefits. The Commission accordingly should exempt higher education institutions and networks from CALEA, if it considers them subject to the assistance-capability requirements in the first place.

Moreover, if the FCC applies CALEA to educational networks at all, it should construe the *Order* as applying *at most* to the Internet connection facilities at the edge of the network, for the reasons stated by the Higher Education Coalition. In addition, as proposed by the Coalition, any such requirement should be phased in over a five-year period as existing equipment is replaced in the normal course of events.

Conclusion

Salisbury University respectfully requests that the Commission clarify that private networks operated by higher education and research institutions are not

subject to CALEA, or alternatively grant an exemption under Section 102(8)(C)(ii) of CALEA.

Respectfully submitted,

David H. Buchanan
Provost
Salisbury University
Salisbury, Maryland 21801